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May 4, 2023

VIA ECF

Honorable Jennifer L. Rochon
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: **Mulkern v. Lowes Inc., Case No. 1:23-cv-03689**

Dear Judge Rochon:

This firm represents Defendant Lowe's Home Centers, LLC (incorrectly named in the Complaint as "Lowes Inc.") ("Defendant") in the above-referenced matter. We write to request an extension of Defendant's time to move, answer, or otherwise respond to the Complaint up to and including June 9, 2023.

By way of background, Defendant removed the case from the Supreme Court of New York, Rockland County, on May 2, 2023 (see ECF Nos. 1 and 2). As a result, Defendant's current deadline to respond to the Complaint is May 9, 2023.

In order to properly investigate the allegations in Plaintiff's Complaint and prepare a response, Defendant respectfully requests that the deadline for Defendant to move, answer, or otherwise respond to the Complaint be extended up to and including June 9, 2023. In an effort to ascertain *pro se* Plaintiff Kevin Mulkern's position on this extension, Defendant's counsel called Plaintiff on May 4, 2023 and left voice messages at Plaintiff's number identified in the Complaint ("Complaint Telephone Number") and at Plaintiff's last known number on file with Defendant.¹ During the afternoon of May 4, 2023, a man who identified himself as Plaintiff's brother, Patrick Mulkern, called from the Complaint Telephone Number and left a voice message for Defendant's counsel. Defendant's counsel returned the call to the Complaint Telephone Number. Patrick Mulkern answered the call, represented that he had authority to speak on Plaintiff's behalf, and said that Kevin Mulkern was not available. Patrick Mulkern

¹ Defendant's counsel spoke with Plaintiff's relative, believed to be his mother, who responded that Plaintiff was not there and directed counsel to call back and leave a voice message, which was done by Defendant's counsel.



Hon. Judge Jennifer L. Rochon
May 4, 2023
Page 2

agreed to the extension. However, as of the date of this filing, Plaintiff has not called Defendant's counsel and Defendant's counsel has not been able to speak directly with Plaintiff.²

This is Defendant's first request for an extension of this deadline. The requested relief will not affect any other scheduled dates and there is no scheduled appearance before the Court.

This application is being made in good faith and not to cause undue delay. We thank the Court for its time and attention to this matter, and for its consideration of this application.

Respectfully submitted,

SEYFARTH SHAW LLP

/s/ Howard M. Wexler

Howard M. Wexler
Kristin L. Witherell

cc: All counsel of record (via ECF)
Plaintiff Kevin Mulkern (via Federal Express Priority Overnight)

Granted
See Order²
MK
5/9/23

² Previously, Defendant's counsel called Plaintiff on April 25, 2023 at both telephone numbers, left a voice message at the Court Telephone Number and left a message with Plaintiff's relative, believed to be his mother, at the other number. On April 26, 2023, Defendant's counsel emailed Plaintiff's last known e-mail address on file with Defendant, but it bounced back as undeliverable.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEVIN MULKERN,

Plaintiff,

v.

LOWES INC.,

Defendant.

Civil Action No.: 23-cv-3689

CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2023, a true and correct copy of DEFENDANT'S MAY 4, 2023 LETTER REQUESTING AN EXTENSION OF THE DEADLINE TO RESPOND TO THE COMPLAINT, was served upon *Pro Se* Plaintiff via FedEx priority overnight mail, postage prepaid, at the following address of record:

Kevin Mulkern
19 Poplar St.
Nanuet, NY 10954

/s/ Howard M. Wexler
Howard M. Wexler